

A C T S
OF THE
TWENTY-THIRD
GENERAL ASSEMBLY
OF THE
S T A T E
OF
NEW-JERSEY.

AT A SESSION BEGUN AT TRENTON, ON THE TWENTY-THIRD DAY OF OCTOBER,
ONE THOUSAND SEVEN HUNDRED AND NINETY-EIGHT, AND CON-
TINUED BY ADJOURNMENTS.

BEING THE THIRD SITTING.



TRENTON:

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M, DCC, XCIX.

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be received or read in any court of law or equity in this state, as law or evidence of the law, or elucidation or explanation thereof, any practice, opinion or sentiment of the said courts of justice, used, entertained or expressed to the contrary hereof notwithstanding.

6. *And be it enacted*, That the act, entitled, "An act to alter the appropriation of fees, on passing of private laws," passed the twentieth day of February, in the year of our Lord, one thousand, seven hundred and ninety-four, be and the same is hereby repealed. Former act repealed.

A. Passed at Trenton, June 13, 1799.

C H A P. DCCCXXII.

An Act for the Regulation of the Militia of New-Jersey.

WHEREAS the several laws heretofore enacted for the regulation of the militia, have been found to require material alterations, in order to which, it is deemed advisable to revise the whole system: Therefore,

Sect. 1. *BE IT ENACTED by the Council and General Assembly of this state, and it is hereby enacted by the authority of the same*, That every free able-bodied white male inhabitant of this state, who is, or shall be of the age of eighteen years, and under the age of forty-five years, (except ministers of the gospel, the vice-president of the United States; the officers judicial and executive of the government of the United States; the members of both houses of Congress, and their respective officers; all custom-house officers, with their clerks; all post-officers and stage-drivers, who are employed in the care and conveyance of the mail of the post-office of the United States; all ferrymen usually employed at any ferry on the post-road; all inspectors of exports; all pilots, all mariners actually employed in the sea-service of any citizen or merchant within the United States) shall severally and respectively be enrolled in the militia by the captain or commanding officer of the company within whose bounds such citizen shall reside. *Provided always*, That in all cases of doubt respecting the age of any person enrolled, or intended to be enrolled, the party questioned shall prove his age to the satisfaction of the officers of the company within whose bounds he may reside, or a majority of them. Who shall be enrolled in the militia.

2. *And be it enacted*, That the militia shall continue their present arrangements in brigades and divisions, as follows:

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Militia divided
into brigades
and divisions.

The militia in the counties of Gloucester and Burlington, shall form one brigade, and the militia in the counties of Cumberland, Salem and Cape-May, shall form one brigade; which brigades shall form the first division: The militia in the counties of Bergen, Essex and Morris, shall each form a brigade; which brigades shall form the second division: The militia in the counties of Somerset, Middlesex and Monmouth, shall each form a brigade; which brigades shall form the third division: The militia in the counties of Hunterdon and Sussex, shall each form a brigade; which brigades shall form the fourth division. And the several regiments, independent battalions, battalions and companies of infantry, light-infantry and grenadiers, shall also continue as at present arranged. The cavalry of this state shall be formed into one brigade, and squadrons, and regiments, as follows: The troops of horse in the county of Bergen, shall form one squadron, and the troops of horse in the county of Essex, shall form one squadron; which two squadrons shall form one regiment: The troops of horse in the county of Morris, shall form one squadron, and the troops of horse in the county of Sussex, shall form one squadron; which two squadrons shall form one regiment: The troops of horse in the county of Middlesex, shall form one squadron, and the troops of horse in the county of Monmouth, shall form one squadron; which two squadrons shall form one regiment: The troops of horse in the county of Hunterdon, shall form one squadron, and the troops of horse in the county of Somerset, shall form one squadron; which two squadrons shall form one regiment: The troops of horse in the counties of Burlington and Gloucester, shall form one squadron, and the troops of horse in the counties of Salem, Cumberland and Cape-May, shall form one squadron; which two squadrons shall form one regiment. The artillery of this state shall be formed into one regiment, as follows: The companies now formed, and that may hereafter be formed, in the counties of Bergen, Essex, Middlesex, Monmouth, Somerset and Morris, of the second and third division, shall form one battalion: And the companies of artillery now formed, or which hereafter may be formed, in the counties of Hunterdon, Sussex, Burlington, Gloucester, Cape-May, Salem and Cumberland, of the first and fourth division, shall form one other battalion.

Militia officers
to hold their
present rank.

Vacancies how
supplied.

3. *And be it enacted*, That the present officers of the militia of this state, shall continue and exercise the several ranks and commissions which they now respectively hold. Vacancies by death, removal, resignation or otherwise, shall be filled up, so that the militia shall be officered, as follows: To each division there shall be one major-general and two aids-de-camp, with the rank of major; to each brigade, one brigadier-general, with one brigade-inspector, to serve also as brigade-major, with the rank of major, one brigade or senior surgeon, and one bri-

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gade quartermaster; one adjutant-general, with the rank of brigadier-general; to each regiment, one lieutenant-colonel commandant; and to each battalion and squadron, one major; to each company of infantry, light-infantry and grenadiers, one captain, one lieutenant and one ensign, four serjeants, four corporals, one drummer, one fifer, and not more than sixty-four nor less than forty private individuals, or as near as may be, having regard to their local situation; to each troop of horse, there shall be one captain, two lieutenants and one cornet, four serjeants, four corporals, one saddler, one farrier and one trumpeter, and not more than forty-eight nor less than thirty-two troopers; to each company of artillery, there shall be one captain and two lieutenants, four serjeants, four corporals, six gunners, six bombardiers, one drummer, one fifer, and not more than thirty-two nor less than twenty matrosses. There shall be a regimental-staff, to consist of one adjutant and one quartermaster, to rank as lieutenants, one paymaster, one surgeon and one surgeon's mate, one serjeant-major, one drum-major, and one fife-major. All officers shall take rank according to the date of their commissions; and when two of the same grade bear an equal date, then their rank shall be determined by lot, to be drawn by them before the commanding officer of the division, brigade, regiment, battalion, company or detachment. The regimental-staff shall be appointed by the field-officers. The brigade and regimental-staff shall be commissioned by the commander in chief, on certificates of their appointment, under the hands and seals of the officers making the same: *And further,* There shall be one adjutant to each squadron of cavalry.

4. *And be it enacted,* That the whole of the militia of this state shall be subject to be mustered and exercised in companies, battalions and regiments, by their respective officers, to wit: In companies, on the first Monday in October of every year, at such place within the bounds of the companies, as the respective captains or commanding officers of companies shall order: In battalions as follows: The first battalion of the first regiment, on the third Monday in May; the second battalion of the first regiment, on the Tuesday following; the first battalion of the second regiment, on the Wednesday following; the second battalion of the second regiment, on the Thursday following; the first battalion of the third regiment, on the fourth Monday in May; the second battalion of the third regiment, on the Tuesday following; the first battalion of the fourth regiment, on the Wednesday following, and the second battalion of the fourth regiment, on the Thursday following: And in regiments as follows; the first regiment in each and every brigade, shall be exercised on the first Tuesday in June; the second regiment on the Wednesday following; the third regiment on the Thursday following, and so on, according to the numerical rank, on every

Time of company trainings.

Battalion trainings.

And regimental trainings.

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day thereafter (Saturday and Sunday excepted) until the whole number of regiments in every brigade shall have mustered in the order aforesaid: *Provided*, That the regimental training in the county of Cumberland, shall begin on the second Tuesday in June, and continue on in the above order; and where there shall be any battalions not annexed to any regiment, the said battalions shall exercise on the third and fourth Mondays of May, yearly, except the battalion in the county of Cape-May, which shall exercise on the second Tuesday in April: *Provided always*, That the militia of the townships of Little Egg-Harbour, in the county of Burlington, and of Great Egg-Harbour, and Galloway, in the county of Gloucester, and of Stafford and Dover, in the county of Monmouth, and the over-mountain battalion in the county of Sussex, and all such companies as may be formed at any manufactory or iron-works, not within twenty miles of the places of their battalion or regimental trainings, may meet and exercise at the usual place or places of parade in the said townships or districts, or at the said manufactories or iron-works, on the days appointed for regimental and battalion trainings, which shall be considered instead of meeting in regiments and battalions: *And further*, That if the order aforesaid, in which the regiments and battalions are directed to exercise, shall be found inconvenient, it shall be lawful for the brigadier-general and field-officers of each brigade, or a majority of them, to change the order in which the regiments and battalions aforesaid shall be exercised, at their discretion, not altering the days of training and exercise, but confining such discretion to naming the particular regiment or battalion that shall train or exercise on a particular day, so that the inspection thereof may be rendered more convenient to the brigade-inspector, who is hereby directed to give notice, by advertisements in three of the most public places within the limits of the brigade, at least thirty days previous to the day of meeting.

Brigadier-general may change the order of exercise, &c.

Brigade-inspector to advertise.

Of artillery and cavalry trainings.

5. *And be it enacted*, That every troop of horse and company of artillery, attached to any of the brigades of infantry of this state, shall be considered as being attached to the regiment or independent battalion, within the bounds of which the major part of the company was raised, and shall assemble for exercise and inspection with such regiment or independent battalion; and it shall be the duty of the captain or commanding officer to make a return of all delinquents in their respective companies, in the same manner as the captains or commanding officers of the infantry are by law directed to make returns. And the cavalry shall assemble in squadron or troop, at such place as the commanding officer thereof may direct, on the same days as are directed by law, for the infantry in the several counties of this state, and shall in all things be subject to the rules, regulations and penalties prescribed and imposed by this act, on the militia of this state.

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6. *And be it enacted*, That the fines for non-attendance on days of exercise shall be as follows: On a field-officer, the sum of six dollars per day; on every other commissioned officer, three dollars per day, and on every non-commissioned officer and private, one dollar per day; and the same fines shall be respectively paid by every officer, non-commissioned officer and private, who shall leave the parade or absent himself from his regiment, battalion, squadron, troop or company, without leave of the commanding officer, before the said regiment, battalion, squadron, troop or company shall be discharged; and if any militia-man shall appear on parade without a musket or firelock, or if any trooper shall appear without his sword or pistols, he shall forfeit and pay fifty cents, and for want of other accoutrements, excepting knapsacks and ammunition, shall forfeit and pay six cents for each and every article so deficient: *Provided*, That no militia-man shall be liable to such fines, who, in the opinion of a majority of the commissioned officers of the company, may be deemed unable to procure arms or accoutrements, or either of them.

Fines for non-attendance on days of exercise.

7. *And be it enacted*, That in order to ascertain those persons, who by their absence on days of exercise, shall be liable to the fines and forfeitures of this act, a sergeant of the troop or company shall, on every such day, in the presence of the captain or commanding officer of the troop or company, one hour after the time appointed for the meeting of the troop, company, battalion, squadron or regiment, and also after the exercise is over, and before the men are discharged, call over the roll of the troop or company, noting those who are absent.

Roll when to be called.

8. *And be it enacted*, That the commanding officer of each regiment, shall hear and decide upon the reasons assigned by the other field-officers thereof, for the non-performance of duties for which they are punishable by fine, provided such reasons be offered within ten days: and the field-officers of each regiment, or commandants of independent battalions, shall meet at some convenient time and place, not exceeding twelve days after any regimental or battalion training, or after the call of the whole or a part thereof into actual service, if it may be necessary, of the time and place of which meeting, at least eight days notice shall be given by the commandants of regiments or independent battalions; and the said officers, when so met, shall hear and decide upon the reasons assigned by the captains, subalterns and staff-officers, for the non-performance of duties for which they are punishable by fine; and the commissioned officers of each troop or company, or a majority of them, shall meet at some convenient time and place, not exceeding fifteen days after any regimental, battalion, or troop or company training, or the call of a part or the whole into actual service, of

Excuses for non-performance of militia duty, &c. by whom to be heard and when.

Duplicate lists
of delinquents
to be made out,
and how to be
disposed of.

which time and place, due notice shall be given, by advertisements set up in at least three of the most public places in the bounds of the troop or company, at least eight days previous thereto, and shall then hear and decide upon the reasons assigned by the non-commissioned officers and privates, for the non-performance of duties for which they are punishable by fine; and the said officers, respectively, so appointed to hear and decide upon the reasons offered by the commissioned officers, non-commissioned officers and privates, for non-performance of duties and deficiency of equipments, for which they are punishable by fine, shall, at the expiration of twenty days, make out duplicate lists of such assessment, noting the names of such delinquents as have paid, one whereof he or they shall, without delay, deliver to the paymaster of the regiment, who shall deliver the same to a justice of the peace, within the bounds of the regiment or independent battalion, who is hereby required, forthwith to issue execution against the persons named in the said list, for the sums annexed to their respective names, with the same costs as are allowed them on the return of the state taxes, directed to one of the constables of the county, who is hereby required to levy the same of the goods and chattels of the respective delinquents, and to pay the several sums contained in the said execution, within thirty days, to the paymaster of the regiment or independent battalion, to whom the said delinquents belong; and the other of the said lists, he or they shall deliver or safely transmit to the commanding officer of the regiment or independent battalion, to serve as a check on the said paymasters, in the settlement of their accounts.

Overplus money
how to be
disposed of.

9. *And be it enacted*, That if any money shall remain in the hands of any constable, after making sale of the property of a delinquent, and paying the fines of such delinquent, such money shall be paid by the said constable to the said delinquent; but if he shall refuse to receive the same, then the constable shall pay the said money to the paymaster of the regiment or independent battalion, to which such delinquent belongs, to and for the use of such delinquent.

Fines on minors,
by whom
to be paid.

10. *And be it enacted*, That the fines and forfeitures imposed by this act on minors, living with their parents, and others having the proper care or charge of them, and those of apprentices, shall be paid by their respective parents, guardians, masters or mistresses, or levied of their respective goods and chattels.

Who shall com-
pose the court
of appeals, in
cases of fines
for non-per-
formance of
military duty.

11. *And be it enacted*, That the commanding officer of each battalion or squadron, shall call to his assistance the surgeon or surgeon's mate of the same, and a justice of the peace, or one of the chosen freeholders, residing within the limits thereof,

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who shall constitute a court for hearing and deciding on appeals, and shall meet for that purpose on the first Monday in November, yearly, at some convenient place, to be appointed by the said commanding officer, public notice whereof shall be given by advertisements, fixed up in at least three of the most public places within the limits of the said battalion or squadron, at least ten days previous to the day of meeting; and all persons supposing themselves aggrieved by any fines or forfeitures imposed on them for the non-performance of military duty, may apply to the said court, who are hereby vested with full power and authority, to hear and decide upon the excuses offered, and to remit any fines or forfeitures for just and equitable reasons, and a certificate from the said court, or any two of the members thereof, shall entitle the appellant to receive from the paymaster of the regiment or independent battalion, any sum so remitted: *Provided always*, That no appeal shall be allowed, unless the fines and forfeitures be first paid.

12. *And be it enacted*, That the following fees shall be paid to the officers hereafter named, to wit: To the major, for advertising and attending every election of company officers, two dollars; to the members composing the board of officers for settling the accounts of the paymasters, one dollar each, for every day they may be engaged in the settlement of the said accounts; to the members of the court of appeals, one dollar each, for every day they may be engaged therein; and to the adjutant, one dollar, for every day necessarily employed in summoning courts-martial, or other extra service in the execution of his office: All which sums shall be paid by the respective paymasters, on a certificate under the hand of the commanding officer of the regiment or independent battalion, to which they respectively belong, and shall be allowed in the settlement of their accounts.

Fees to be paid
to officers for
their services.

13. *And be it enacted*, That all fines and forfeitures that shall be incurred, as well for non-attendance on days of exercise, and deficiency of equipments, as for neglect of performing tours of duty, and also all such fines as shall be imposed by courts-martial, or otherwise, on persons made liable by this act, shall be returned, and paid into the hands of the paymaster of the regiment or independent battalion, from which such fines and forfeitures may be due, and shall be applied to the use of such regiment or independent battalion, in the manner by this act directed. And it shall be the duty of the said paymasters, respectively, to pay all such drafts as shall from time to time be made on him, agreeably to this act, by the commanding officer of the regiment or independent battalion, to which they respectively belong.

Fines to be
paid to the
paymaster.

His duty.

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14. *And be it enacted,* That the paymasters of the different regiments or independent battalions for the time being, shall keep proper and distinct accounts of all monies received for fines and forfeitures; and enter the same separately in a book to be kept for that purpose; and all drafts of the commanding officer of the regiment or independent battalion, for which proper vouchers shall be produced, shall be allowed to the said paymasters, respectively, in the settlement of their accounts; and the field-officers of each regiment, and commandants, and two senior captains of independent battalions, are hereby constituted a board for that purpose, and are authorized and empowered, every twelve months, to inspect, and if approved by them, finally to allow the same; and the said paymasters are hereby allowed and authorized, to retain in their hands five per cent. on all monies by them received and paid, which shall be allowed them in the settlement of their accounts; and if it shall appear that any of the said paymasters have been guilty of mal-practice or embezzlement, the said board of officers of each regiment or independent battalion, shall put such delinquent paymaster under arrest, and if upon trial by a court-martial, he shall be found guilty, he shall be cashiered and fined by the said court, in any sum not exceeding sixty dollars; and the succeeding paymaster shall prosecute said delinquent, for any sum or sums of money remaining in his hands, belonging to the regiment or independent battalion to which such delinquent did belong, in any court where the same may be cognizable, and recover the same, with costs.

Of the settle-
ment with the
paymasters.

Allowance to
paymasters.

Penalty for
mal-practice.

Persons may
be employed to
instruct drum-
mers, &c.

Allowance to
them.

Monies may be
drawn to re-
pair drums,
&c.

15. *And be it enacted,* That one drum and one fife-major and one trumpeter, may be employed by the commanding officer of each regiment or independent battalion, whose duty it shall be to instruct and exercise the drummers, fifers and trumpeters of each company or troop in the necessary military music, at such times and under such regulations, as the commanding officer of the regiment or independent battalion may direct, not exceeding twelve days in the year, and shall for such services be paid the sum of two dollars per day each, by the county collector of each county, out of the exempt monies, on the certificate of the commanding officer of the regiment or independent battalion where he may so practise or be employed; and the said drummers, fifers and trumpeters, shall each be paid as afore-said, fifty cents per day, for the time they shall attend to such instruction.

16. *And be it enacted,* That it shall be lawful for the commanding officers of the respective regiments, independent battalions and squadrons, from time to time, to draw from the collectors of the respective counties, such sums as may be necessary for the purchase or repair of drums, fifes, trumpets or colours for

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their respective regiments, battalions and squadrons; and the said drafts shall be allowed the said county collectors, in the settlement of their accounts with the treasurer, as so much of the exempt fines hereby directed to be raised in the said county; but if a sufficiency for that purpose should not be in the treasury from said county, the treasurer is hereby directed to pay the said deficiency unto the said county collector, out of the exempt money in the treasury.

17. *And be it enacted*, That the commander in chief of this state, for the time being, may, in case of invasion or other emergency, when he shall judge it necessary, order out any proportion of the militia of this state, to march to any part thereof, and continue as long as he may think it necessary, not exceeding two months.

Governor may order out militia in case of invasion.

18. *And be it enacted*, That all able bodied white male inhabitants, between the ages of eighteen and forty-five years, who have been or may be exempted from military duty, on paying annually the sum of three dollars for such exemption, shall, notwithstanding, be liable to be drafted in the same manner as the enrolled militia, when called into actual service; for which purpose the several captains of militia within this state, shall enter upon their lists the names of all such exempts as may reside within the bounds of their respective companies; and the exempts, when so drafted, shall be under the same regulations, and liable to the same fines and penalties with the enrolled militia of this state.

Exempts from training liable to be drafted for actual service.

19. *And be it enacted*, That when a part of the militia shall be called into actual service, it shall be the duty of the captain or commanding officer, to divide his troop or company (including the exempts referred to in the preceding section) into as many classes as there shall be men required of him, and by lot, enlistment or draft, to detach one man from each class; and such draft or detachment shall be officered with such officer or officers, and of such grades as shall be proper, agreeably to military discipline; the tour of duty of which commissioned officers shall be determined by a roster to be kept by the adjutant for that purpose: *And further*, That no non-commissioned officer or private shall (after the making of the first draft) be liable to perform actual service, until it shall become his proper tour agreeably to a roster of the company, to be kept by the commanding officer of the same; and that no draft or detachment shall be continued in service, more than two months at any one time, and if necessary, they shall be relieved by a detachment to be made in the manner aforesaid; which relief shall arrive at least two days before the expiration of the term of the detachment to be relieved; but nothing herein contained shall prevent the

Of making the drafts for actual service.

Rosters to be kept, and persons to take their tour agreeably thereto.

Not exceeding two months.

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commander in chief from calling into service the whole or any part of the militia, when the exigencies of the state shall, in his opinion, require it: *And further*, That the pay of the militia in actual service, shall commence two days before marching, and that they shall receive pay and rations at the rate of fifteen miles per day, on their return home; and in requisitions by the President or Congress of the United States, the like mode shall be pursued in drafting and turning out the quota of this state.

Pay when to
commence.

20. *And be it enacted*, That it shall and may be lawful for any person, called to do a tour of duty, to find a substitute, who, if approved of by the captain or commanding officer of the company, may serve in the place of such person.

Persons may
find substitutes.

21. *And be it enacted*, That when any draft or drafts of the militia shall be called to perform any tour of duty, the majors of the battalions shall cause each and every person so called, to be notified of such call, by a written or printed notice being delivered to him personally, or left at his house or usual place of abode, by some officer or other suitable person employed for that purpose by the commanding officer of the said company, at least three days before the time of assembling said militia, unless the commander in chief, on a sudden exigency, shall think proper to order any part of the militia into immediate and actual service, and then the notice mentioning such special order, shall be given for immediate attendance; and any person refusing or neglecting to perform such tour of duty, or to procure a substitute, shall pay a fine of twenty dollars for every such neglect or refusal; which fines as aforesaid, shall be paid to the captain or commanding officer of the company to which such delinquent belongs, and be by him appropriated, under the direction of the commander of the regiment or battalion to which the said company belongs, for the purpose of hiring substitutes to supply the place of the delinquents belonging to the said company; and in case of a surplussage of money arising from such fines, it shall be paid to the paymaster of the regiment, to be appropriated and accounted for as other fines are directed to be by law. And every non-commissioned officer, whilst engaged in warning the company to which he belongs, under the orders of the commanding officer of the company, shall receive one dollar per day, for the time he may be necessarily engaged in such duty.

Notice of draft
how to be given.

Penalty for re-
fusing to do
duty.

Fines may be
appropriated
to the hiring
of substitutes.

22. *And be it enacted*, That the militia of this state shall be governed by the following articles, rules and regulations:

Art. 1. If any field or other commissioned officer, at any review, or on any other occasion, when the regiment, battalion or company to which he may belong, or in which he holds a

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command, is paraded in arms, shall misbehave, or demean himself in an unofficer-like manner, he shall, for such offence, be cashiered, or punished by fine, at the discretion of a general court-martial, as the case may require, in any sum not exceeding thirty dollars; and if any non-commissioned officer or private, shall, on any occasion of parading the company to which he belongs, appear drunk, or shall disobey orders, or use any reproachful or abusive language to his officers, or any of them, or shall quarrel himself, or promote any quarrel among his fellow-soldiers, he shall be disarmed and put under guard, by order of the commanding officer present, until the company is dismissed, and shall be fined at the discretion of a regimental court-martial, in any sum not exceeding eight dollars.

Art. 2. If the commanding officer of any regiment, battalion or squadron, shall neglect or refuse to give orders for assembling his regiment, battalion or squadron at the time appointed by this law, or at the direction of the inspector of the brigade to which he belongs, when the said inspector is thereto commanded by the commander in chief, or in case of an invasion of the city or county to which such regiment, battalion or squadron belongs, he shall be cashiered, and punished by fine not exceeding one hundred dollars, at the discretion of a general court-martial; and if a commissioned officer of any company or troop, shall on any occasion, neglect or refuse to give orders for assembling the company to which he belongs, or any part thereof, at the direction of the commanding officer of the regiment, battalion or squadron to which such company or troop belongs, he shall be cashiered or punished by fine not exceeding thirty dollars, at the discretion of a regimental court-martial; and a non-commissioned officer offending in such case, shall be fined at the discretion of a regimental court-martial, in any sum not exceeding twenty dollars.

Art. 3. If any captain or commanding officer of a company or troop, shall refuse or neglect to make out a list of the persons noticed to perform any tour of duty, and send or convey the same to the commanding officer of the regiment, battalion or squadron to which such company or troop may belong; for such neglect or refusal, he shall be cashiered or fined, at the discretion of a regimental court-martial, in any sum not exceeding thirty dollars.

Art. 4. If any militia-man shall desert while he is on a tour of duty, he shall be fined in any sum not exceeding twenty dollars for every such offence, or may be imprisoned for any time not exceeding two months, at the discretion of a court-martial; and if a non-commissioned officer, he shall also be degraded, and placed in the ranks.

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Art. 5. Every general court-martial shall consist of thirteen members, all of whom shall be commissioned officers, and of such rank as the case may require; and the senior officer shall be president, and not under the rank of a field-officer.

Art. 6. Every regimental court-martial shall be composed of five members, all commissioned officers, the senior officer to be president, not under the rank of a captain.

Art. 7. In any court-martial, not less than two-thirds of the members must agree in every sentence for inflicting any punishment, otherwise the person charged shall be acquitted.

Art. 8. The president of each and every court-martial, whether general or regimental, shall require all witnesses, in order to the trial of offenders, to declare on oath or affirmation, that the evidence they shall give is the truth, the whole truth, and nothing but the truth; and the members of all such courts shall take an oath or affirmation, which the president is required to administer to them, that they will give judgment with impartiality; and the officer next in rank to the president, shall administer the like oath or affirmation to the president.

Art. 9. Every militia-man, called as a witness in any case, before a general court-martial, who shall neglect or refuse to attend and give evidence, shall be censured or fined at the discretion of the court, not exceeding one hundred dollars, and if before a regimental court-martial, not exceeding twenty-five dollars, unless he shall render a satisfactory reason to the president of the court for his non-attendance, in one month thereafter.

Art. 10. No officer or private, being charged with transgressing these rules, shall be suffered to do duty in the regiment, company or troop to which he belongs, until he has had his trial by a court-martial; and every person so charged, shall be tried as soon as a court-martial can be conveniently assembled.

Art. 11. If any officer or private shall think himself injured by the commanding officer of the regiment, battalion or squadron, and shall, upon due application made to him, be refused redress, he may complain to the brigadier-general, who shall direct the inspector of the brigade to summon a general court-martial, that justice may be done.

Art. 12. If any inferior officer or private shall think himself injured by his captain or other superior officer in the regiment, troop or company to which he belongs, he may complain to the commanding officer of the regiment or independent battalion,

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who shall summon a regimental court-martial, for doing justice according to the nature of the case.

Art. 13. No penalty shall be inflicted at the discretion of a court-martial, other than degrading, cashiering, fining or imprisoning agreeable to the fourth article.

Art. 14. Every offender convicted by any regimental court-martial, may be pardoned or have the penalty mitigated by the commanding officer of the regiment or independent battalion, excepting only where such censures or penalties are directed as a satisfaction for injuries received by any officer or private from another; but in case of officers, every sentence of a court-martial shall be approved of by the commander in chief, or the major-general of the division, who are respectively empowered to pardon or mitigate such sentence.

Art. 15. The militia on the days of exercise, may be detained under arms, on duty in the field, any time not exceeding six hours, provided they are not kept above three hours under arms at any one time, without allowing them a proper time to refresh themselves.

Art. 16. Any person who shall bring any kind of spirituous liquors to the place of exercise, shall forfeit such liquors, for the use of the poor, belonging to the city or township where such exercise is had; and the commanding officer of the regiment, battalion or company, is charged with the execution of this article.

Art. 17. The rules of discipline approved and established by Congress, in their resolution of the twenty-ninth day of March, one thousand seven hundred and seventy-nine, shall be the rules of discipline to be observed by the militia throughout this state, except such deviations from said rules, as may be rendered necessary by the requisitions of the acts of Congress, or some other unavoidable circumstances. It shall be the duty of the commanding officer, at every training, whether by regiment or single company, to cause the militia to be exercised and trained, agreeably to the said rules of discipline; and the instructions laid down by the Baron Steuben, and annexed to the said rules of discipline, pointing out the respective duties of the officers, non-commissioned officers and privates, are recommended and enjoined upon the militia of this state, as particularly and fully as if the said instructions were repeated in this act at length.

Sect. 23. *And be it enacted,* That every officer who shall attend on courts-martial, or courts of enquiry, shall be entitled

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Allowance to
officers attend-
ing court-mar-
tial.

to receive from the paymaster of the regiment or independent battalion in which the offender resides, the sum of one dollar each, for every day they shall respectively attend; and all persons attending before said courts, or either of them, as witnesses, shall be entitled to receive from the said paymaster, fifty cents each per day, provided that no more than two witnesses on the part of the state, and two witnesses on the part of the offender, shall be entitled to pay; all which sums shall be paid by the said paymaster, on certificates signed by the president of the court-martial.

Salary of the
adjutant-gene-
ral and bri-
gade-inspectors

24. *And be it enacted*, That the adjutant-general for the time being, shall be allowed as a compensation for his services, the sum of one hundred and fifty dollars, annually, on his producing a certificate from the governor of the state, certifying that he has performed the services required of him by law; and the several brigade-inspectors of infantry, shall be entitled to receive of the treasurer for the time being, out of the exempt money in the treasury, the sum of thirty dollars each, annually, after the passing of this act, upon their producing to the said treasurer, a certificate from the brigadier-general of the brigade to which they belong, certifying that they have performed the services required of them by law.

Cavalry horses
by whom to be
appraised and
paid for.

25. *And be it enacted*, That the brigade-inspector shall call to his assistance two reputable freeholders, above forty-five years of age, who shall appraise, on oath or affirmation, the horse of each person serving as a light-horse-man, immediately before the time of going into actual service, and describe the age, size, colour and marks of the said horse, and enter the same in a book; and in case such horse shall be killed or be taken by the enemy, he shall be paid the full value of his horse, according to the said appraisalment, by an order to be drawn on the certificate of the inspector, by the brigadier-general or commanding officer of the brigade, on the treasurer of this state, provided such claim be made in one year after the loss so sustained.

Uniform com-
panies how to
be completed.

26. *And be it enacted*, That it shall and may be lawful for the captains or commanding officers of the several companies of cavalry, artillery, infantry and grenadiers, to enroll in their respective companies, from the several companies composing the regiment or battalion to which they may belong, such men as may from time to time, be necessary to complete their respective companies; and a certificate from the said captain or commanding officer, shall exonerate the bearer from serving or paying any fine thereafter imposed on him by the officers of the company to which he formerly belonged, any law, usage or custom to the contrary notwithstanding: *Provided always*, That it shall

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not be lawful for the captain or commanding officer of the cavalry, artillery or other uniform company, to grant a certificate to any person prior to his appearing in uniform agreeably to law.

27. *And be it enacted*, That every captain, lieutenant or ensign, who shall from time to time be chosen by the several companies, and shall report his acceptance of the office, within thirty days after having received notice thereof, to the major or commanding officer of the regiment or battalion; and in case such report is not made as aforesaid, the said office shall be deemed as vacant. And the resignation of every captain, lieutenant and ensign, shall be delivered to the lieutenant-colonel or commanding officer of the regiment, independent battalion or squadron, to which the said company or troop shall belong; and where vacancies shall happen in any company or troop, by the death, removal or resignation of a captain, lieutenant, ensign or cornet, it shall be lawful for the commanding officer of the regiment or independent battalion, by warrant under his hand and seal, directed, if by the commanding officer of the regiment, to the major or commanding officer of the battalion or squadron to which such company or troop belongs; if by the commanding officer of an independent battalion, to the senior captain thereof, to hold an election within the limits of such company or troop, to supply the vacancy occasioned by the non-acceptance, resignation, removal, death or otherwise, of any such officer; and thereupon the said major or commanding officer of the said battalion or squadron, or senior captain, shall give fifteen days notice, by advertisement in three of the most public places within the limits of such company, of an election to supply the place of the officer or officers of the company or troop which may be vacant; and the said company or troop, or such of them as may attend, shall proceed by plurality of votes, to choose such officer or officers residing within the bounds of the said company or troop; and the said major or commanding officer of the said battalion or squadron, or senior captain, shall certify under his hand and seal, annexed to or indorsed on the warrant aforesaid, the name and rank of each officer so chosen or elected, to the commander in chief of the state, who shall commission the said officer accordingly.

To whom resignations are to be made.

Vacancies how to be supplied.

28. *And be it enacted*, That if any commissioned officer shall remove out of the bounds of his proper division, brigade, regiment, battalion, squadron, troop or company, or shall be absent therefrom more than nine months, his office shall be thereby vacated.

Offices vacated by removal or absence for 9 months.

29. *And be it enacted*, That if the lieutenant-colonel, major and captains of any regiment, or the major and captains of any

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Bounds of com-
panies, &c.
may be altered
by the briga-
dier-general.

independent battalion in this state, shall think it necessary to make an alteration in the bounds of any company, battalion or regiment, then the said lieutenant-colonel, majors and captains, or the said major and captains, as the case may be, shall, under their hands in writing, apply to the brigadier-general, to make such alteration as they may think necessary; and the said brigadier-general is hereby authorized to make such alteration as he may think necessary in any regiments, battalions or companies within his brigade, and shall inform the said officer or officers commanding the said regiments, battalions or companies, of such alteration, who are hereby required to give at least ten days notice, by advertisement, of such alteration, previous to the meeting of the said regiments, battalions or companies; and all persons annexed to any regiments, battalions or companies as aforesaid, shall be subject to the command of the said officers, respectively, and also to all fines and penalties for neglect of duty, which are inflicted by law on persons who originally belonged to the said regiments, battalions or companies.

Of forming
new companies

30. *And be it enacted*, That if at any time hereafter, from the increase of the militia, or otherwise, it shall be deemed necessary, in the opinion of the field-officers of any regiment, to form a new company or companies, it shall be lawful for the brigadier-general, upon application of the field-officers, to order such company or companies to be formed accordingly, and to attach them to their proper battalions; which company shall choose their officers in the presence of the major; and the officers shall be commissioned by the commander in chief, upon a certificate signed by the said major.

Militia-men
exempt from
paying ferri-
age, &c.

31. *And be it enacted*, That no officer or private shall, on the way to or from the place of any review, regimental or company training to which he shall belong, pay more than one third of the usual rate of ferriage, or be charged any toll for passing any toll-bridge; and if any ferryman or keeper of any toll-bridge, shall refuse a passage, or make a demand contrary to the directions of this act, he shall for each offence, forfeit and pay the sum of eight dollars, to be recovered by any person who will sue for the same, one half to the prosecutor, and the other half to the paymaster, for the use of the regiment or independent battalion, where such demand or refusal is made, any law, usage or custom to the contrary notwithstanding.

Candidates not
to treat on days
of election.

32. *And be it enacted*, That no candidate shall give any spiritous liquors or treat, to any officers or privates on any day of election of officers, under the penalty of twenty dollars.

33. *And be it enacted*, That if any suit shall be brought or commenced against any person, for any thing done in pursuance

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of this act, the *venue* shall be laid in the county where the cause of action arose; and the defendant in such action may plead the general issue, and give this act and the special matter in evidence.

In actions against militia-men, as such, *venue* to be laid in the proper county.

34. *And be it enacted*, That the captains or commanding officers of the different companies or troops of militia in this state, shall, yearly, on or before the twentieth day of June, make and deliver a full and complete roll, on oath or affirmation, to the assessors of the respective townships in which they reside, of all persons duly enrolled in their respective companies, who perform military duty; for which service the said captains or commanding officers shall respectively be entitled to receive of the collector of the county, the sum of one dollar, on producing a receipt of his having delivered the said roll to the assessor as aforesaid; and the assessors of the several townships of this state shall, yearly, between the twentieth day of June and the twentieth day of August, take an exact list of the names and surnames of all free white male inhabitants in their respective townships, between the ages of eighteen and forty-five years, except such persons as are exempted from militia duty by the first section of this act, and all general, field and staff-officers in actual commission, and excepting those who shall produce to the said assessor, a certificate signed by the commanding officer, surgeon or surgeon's mate, and any one captain of said battalion to which they belong, or any two of them, of their inability of body to perform military duty; and the said assessors respectively, shall, after comparing the returns made by the respective captains or commanding officers, with the list of names by them respectively taken, insert all the names not contained in the rolls or returns made by the said captains or commanding officers, in a separate list to be annexed to their respective duplicates or tax lists, and they and every of them, shall be considered as exempts, and the several assessors shall fine them in their respective duplicates, the sum of three dollars each, over and above the amount of their taxes; and the said assessors shall yearly and every year, make out a duplicate list of the names of every exempt contained in his or their respective duplicates or tax lists, and shall deliver or safely transmit the same to the collector of their respective counties; and also, at their annual meeting in September, yearly, make out a general abstract of the same, which they shall deliver or safely transmit to the said county collector, who is hereby required and enjoined, to deliver or safely transmit the same to the treasurer of the state; and the said treasurer shall thereupon charge the county, in which the said townships are situated, with the amount of the money due on the said duplicate lists for exempt fines, in the public books of his office; and the several county collectors of this state, shall pay forward to the treasurer thereof, the sum due on the respective lists for

Captains to deliver roll of their companies to the assessors.

Allowance therefor.

Who shall be considered as exempts, &c.

Abstract to be furnished the treasurer;

His duty.

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exempt fines, over and above the quotas due from the several counties by law, on the same day on which the said quotas become due, unless he or they shall produce an account from the township collector or constable, certified on oath or affirmation, that the persons named in the said account for exempt fines, are either dead, absconded or insolvent, and that the money cannot be recovered; and on neglect thereof, the said treasurer shall prosecute the said county collector for and recover the same, or any part thereof, in any court where the same may be cognizable; and the said treasurer is hereby directed to keep separate and distinct accounts of all monies received in pursuance of this act, and to lay an account thereof, annually, before the legislature. And if any assessor shall neglect or refuse to insert the names of the persons not contained in the company rolls as aforesaid, he or they so offending, shall forfeit and pay the sum of six dollars for every name by him or them omitted or neglected to be inserted in his duplicate, to be recovered by the collector of the township, in an action of debt, in any court where the same may be cognizable, with costs of suit, to and for the use of the state; and the said assessors, respectively, shall be entitled to receive, in addition to their other fees to which they are entitled by law, the sum of two cents for every name contained in their lists, of all persons between the ages of eighteen and forty-five years; and the said collectors, respectively, shall be entitled to receive, in addition to their other fees, the sum of two cents for the name of every exempt contained in their respective duplicates; all which fees shall be paid by the county collector, out of the exempt fines, and a receipt of such payment, with two cents on a dollar, shall be allowed such county collector in his settlement with the treasurer.

Penalty on assessors;

Allowance to them.

Allowance to the county collector.

Who shall constitute a court of appeals in cases of improper enrollments; when to meet and power of the court.

35. *And be it enacted*, That the commanding officer of the regiment or independent battalion, the surgeon or surgeon's mate, and any one captain of the same, shall constitute a court of appeal, and shall meet for that purpose on the second Monday in November, yearly, at some convenient place to be appointed by the said commanding officer, public notice whereof shall be given by advertisements, fixed up in at least three of the most public places within the limits of the said battalion or regiment, at least ten days previous to the day of meeting; and any person who may think himself aggrieved, may apply to the said court, which is hereby invested with full power and authority to hear and decide thereon; and if he shall make it appear to the satisfaction of the said court, that he is wholly unable to perform military duty, or not within the age prescribed by law, or is enrolled as a militia-man, to remit such exempt fine; and a certificate from the officers composing the said court, or any two of them, shall be deemed good and valid, and the appellant shall thereupon be discharged from the payment thereof; and

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the said court shall make out and transmit a duplicate certificate to the collector of the county in which such applicant resides; which certificate shall be allowed as a sufficient voucher to the county collector, in his settlement with the treasurer of this state, for so much of the exempt fines.

36. *And be it enacted*, That the respective township collectors, shall collect the said exempt fines, at the same time and in the same manner in which the township quota of other taxes is directed by law to be collected; and if the said township collectors, or any of them, shall neglect or refuse to pay forward the amount of said exempt fines as aforesaid, the collector of said county shall prosecute for and recover the same, in the manner the state taxes are recoverable.

Exempt fines
how to be col-
lected.

37. *And be it enacted*, That if any assessor shall neglect or refuse to execute any of the duties enjoined on him by this act, he shall forfeit and pay the sum of thirty dollars for each offence, to be recovered by action of debt, with costs of suit, by the collector of the county; and if any county collector shall neglect or refuse to execute any duty enjoined on him by this act, he shall forfeit and pay the sum of one hundred dollars for each offence, to be recovered by action of debt, with costs, by the treasurer of this state, and applied to the use of the state; and all other officers, as well civil as military, who shall neglect or refuse to perform any of the duties required of them by this act, and not otherwise punishable by the same, or who shall neglect or refuse to pay forward the monies by them received in pursuance of this act, to the paymaster of the regiment or independent battalion to which they belong, or in which they reside, they shall respectively forfeit and pay the sum of thirty dollars for each offence, to be recovered by action of debt, by the paymaster of the said regiment or battalion, in any court where the same may be cognizable, with costs of suit, to and for the use of the said regiment or independent battalion; and shall moreover be liable to an action at the suit of the said paymaster of the regiment or independent battalion, for the sums which may be in his or their hands, to be recovered in any court where the same may be cognizable, with costs of suit, to be applied as aforesaid.

Penalty on as-
sessor for ne-
glect of duty;

On county col-
lectors;

And on all o-
ther officers.

38. *And be it enacted*, That if any youth of the age of twelve years, and not exceeding the age of eighteen years, shall, with the consent and approbation of his parents, attach himself to any company of militia for the purpose of learning to beat the drum, play on the fife or blow the trumpet, provided the number shall not exceed one person for the drum and one for the fife, in each company, and one for the trumpet in each troop of horse, every such person or persons shall be put under the instructions of the drum or fife-major, or trumpeter, as the case

Music to be
taught, &c.

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may be, whose duty it shall be to teach such person or persons in the best manner in his power; and as soon as such person or persons shall be able to perform field duty, to the satisfaction of the commanding officer, he shall draw his warrant on the paymaster of the regiment, in favour of the drum or fife-major, or trumpeter, who may have taught such person or persons to beat the drum, play the fife or blow the trumpet as aforesaid, for the sum of ten dollars for every person so taught; and the person so taught shall be furnished with a suit of regimentals, to be paid for out of the funds of the regiment or battalion, as the case may be; and the father of every youth who shall have been instructed as aforesaid, shall be exempted and excused from every kind of military duty, so long as his son shall continue to perform the duties of a drummer, fifer or trumpeter in any militia company or troop, and be under the age of eighteen years.

Surplus money
how to be ap-
propriated.

39. *And be it enacted*, That the surplus money which may be in the hands of any paymaster of any regiment or independent battalion, on the settlement of his accounts, shall be appropriated to the purchase of arms and accoutrements for the use of the said regiment or independent battalion, at the discretion of a majority of the commissioned officers thereof.

Militia on pa-
rade days not
to be arrested
and arms not
to be levied on.

40. *And be it enacted*, That no commissioned officer, non-commissioned officer or private, shall be arrested on any civil process in going to or returning from any place of exercise or training, nor shall any arms or accoutrements of a militia-man be levied on or sold by virtue of any execution.

Former acts
repealed.

41. *And be it enacted*, That the act, entitled, "An act for organizing and training the militia of this state," passed the thirtieth day of November, one thousand seven hundred and ninety-two, and the several supplements thereto, be and the same are hereby repealed: *Provided always*, That nothing herein contained, shall be deemed to repeal, alter or dispense with the powers, authorities or duties of the several officers under the said acts, in and concerning the fines, penalties and forfeitures heretofore incurred under the same, and that the proper officers be and they are hereby authorized and enjoined to collect, or cause to be collected, all such fines and forfeitures as have been incurred, and pay the same agreeably to the laws aforesaid, on or before the first day of January next: *And provided*, That so much of this act as respects the time of trainings and exercises of the several regiments, battalions and independent battalions, shall not be in force until the first day of January next.

A. Passed at Trenton, June 13, 1799.